



UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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MAILED

WITHROW & TERRANOVA, PLLC
PO BOX 1287
CARY, NC 27512

OCT 01 2002

In re Application of
David D. Hadden
Application No. 09/837,076
Filed: April 18, 2001
For: PERFORMANCE-BASED
TRAINING ASSESSMENT

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600
DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is in response to applicant's petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO), on September 11, 2002.

The petition is **DISMISSED**.

A review of the file record reveals that An Office action was mailed to the firm of Withrow & Terranova on February 12, 2002. Since no response to the February 12, 2002 Office communication was filed, the application was held abandoned in the Notice of Abandonment mailed August 23, 2002.

There is a strong presumption that Office communication properly addressed and delivered to the United States Postal Services, was in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

- (1) A statement from the practitioner stating the Office communication was not received by the practitioner;
- (2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and
- (3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The docket records indicated above must include a copy of the list of **all** responses in the practitioner's office with the due date of and around May 12, 2002. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G.53 (November 16, 1993). The petitioner has supplied the docket

report for the above reference application only. This fails to comply with requirement (3) indicated above.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

Correspondence with respect to a Petition to Withdraw the Holding of Abandonment under *Delgar Inc. v. Schuyler* should be mailed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231, and inquiries relative to this decision may be directed to Special Programs Kenneth Dorner at (703) 308-0866. No fee is required for such a petition.



Kenneth Dorner, Special Program Examiner
Patent Technology Center 3600
(703) 308-0866
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KD/dew: 09/20/02